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MICHELLE L. BODTKE, Appellant)	
)	
and)	Docket No. 05-1057
)	Issued: October 18, 2005
U.S. POSTAL SERVICE, POST OFFICE,)	
Santa Clarita, CA, Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

On April 11, 2005 appellant filed a timely appeal of a September 14, 2004 decision of the Office of Workers' Compensation Programs, denying her claims for compensation from December 22, 2003 to January 23, 2004 and February 16 to March 12, 2004. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

The issue is whether appellant has established an employment-related disability for the periods December 22, 2003 to January 23, 2004 and February 16 to March 12, 2004.

On July 15, 2003 appellant, then a 49-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained right arm and shoulder injuries causally related to repetitive work duties.¹ The reverse of the claim form indicated that appellant stopped work on

¹ Appellant indicated that she had been working a modified city carrier position since May 2000.

May 16, 2003. The record indicates that on July 21, 2003 the employing establishment offered appellant a light-duty position. According to the employing establishment, appellant reported for work on July 21, 2003 but was sent home because her physician had not authorized a return to work.

In a report dated August 25, 2003, Dr. Deepal Ekanayake, an internist, diagnosed right shoulder tendinitis and right elbow epicondylitis. He opined that the diagnosed conditions were causally related to repetitive motions at work. Dr. Ekanayake stated that appellant was off work and was under counseling for anxiety/depression due to pain and inability to work.

On September 23, 2003 the Office accepted the claim for right shoulder tendinitis and right elbow epicondylitis. Appellant was advised to submit Form CA-7 (claim for compensation) if the injury resulted in lost time from work. On October 8, 2003 appellant submitted a CA-7 for the period May 16 to July 18, 2003 and a CA-7 for July 22, to October 3, 2003. A form report (Form CA-20) dated October 3, 2003 from Dr. Ekanayake reported that appellant was totally disabled from July 22 to October 3, 2003. He indicated that appellant could resume light duty on November 1, 2003.

In a letter dated November 4, 2003, the Office indicated that compensation was payable from August 6 to September 17, 2003. It noted that appellant had been paid sick leave by the employing establishment for dates claimed prior to August 6, 2003 and from September 18 to October 3, 2003. Appellant filed a CA-7 on November 10, 2003 for the period October 6 to November 28, 2003 and a December 10, 2003 CA-7 was filed for November 30 to December 26, 2003.

By letter dated December 16, 2003, the Office stated that compensation was payable from November 18 to December 19, 2003 and to claim additional compensation she should file appropriate CA-7's.

On January 7, 2004 appellant filed a CA-7 for the period December 22, 2003 to January 23, 2004. The record also contains a January 26, 2004 CA-7 form for the period January 26 to February 13, 2004. On February 23, 2004 appellant filed a CA-7 for the period February 18 to March 12, 2004.

In a decision dated March 10, 2004, the Office denied appellant's claim for wage-loss compensation from December 22, 2003 to January 23, 2004. In a separate decision dated March 10, 2004, the Office denied the claim for the period February 16 to March 12, 2004.

Appellant filed another CA-7 dated March 8, 2004 for the period March 15 to 26, 2004. By decision dated March 24, 2004, the Office denied this claim for compensation.

By decision dated September 14, 2004, an Office hearing representative reviewed the written record and affirmed the March 10, 2004 decisions. The hearing representative found that appellant had not established entitlement to compensation for disability from December 22, 2003 to January 23, 2004 or February 16 to March 12, 2004.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim, including that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ Whether a particular injury causes an employee to be disabled for work, and the duration of that disability, are medical issues that must be proved by a preponderance of the reliable, probative and substantial medical evidence.⁴

ANALYSIS

The issue presented in this case is compensation for wage loss from December 22, 2003 to January 23, 2004 and February 16 to March 12, 2004. The hearing representative did not address any other periods of claimed disability.⁵

Appellant argued that it is the Office's burden of proof in this case. The Board notes, however, that, although the Office did accept the claim and paid compensation for wage loss, payments were made on the daily rolls pursuant to specific periods claimed on a Form CA-7. Under these circumstances, appellant retains the burden of proof of establishing that she was disabled for work due to residuals of her accepted condition for periods claimed on specific CA-7's.⁶ She must submit probative medical evidence supporting that she was disabled for the position held on the date of injury for the periods claimed.

In this case, appellant did not submit sufficient medical evidence on the relevant issue. There are no medical reports of record with a reasoned medical opinion as to disability for the date-of-injury position, as a result of the employment injuries, for the period December 22, 2003 to January 23, 2004 or February 16 to March 12, 2004. In the absence of such evidence, appellant did not meet her burden and her claim for compensation was properly denied.

² 5 U.S.C. §§ 8101-8193.

³ *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Fereidoon Kharabi*, 52 ECAB 291, 292 (2001).

⁵ The hearing representative indicated that appellant did not claim compensation from January 24 to February 15, 2004, but the record does contain a CA-7 for the period January 26 to February 13, 2004. The Board does not have jurisdiction over the March 24, 2004 Office decision as it was issued more than a year before the filing of the appeal. 20 C.F.R. § 501.3(d)(2).

⁶ See *Carlos A. Marrero*, 50 ECAB 117, 118 (1998) (the Office paid compensation from February to July 1994 based on submission of CA-8 forms; appellant maintained burden of establishing continuing entitlement to compensation for wage loss); see also *Donald Leroy Ballard*, 43 ECAB 876, 882 (1992).

CONCLUSION

The Board finds that appellant did not submit sufficient medical evidence to establish an employment-related disability for the periods December 22, 2003 to January 23, 2004 or February 16 to March 12, 2004.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 14, 2004 is affirmed.

Issued: October 18, 2005
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board